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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/523,940

Filing Date: February 08, 2005

Appellant(s): BAKER ET AL.

Gregory L. Thorne
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 7/23/2008 appealing from the Office action
mailed April 17, 2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct. The advisory noted that the amends are entered upon appeal, and thus the amended submitted after are now being entered.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US 2003/0063583 A1	PADOVANI et al.	04-2003
US 5,633,874	Diachina et al.	05-1997
US 2002/0064167 A1	Khan et al.	05-2002
US 5,933,763	Wang et al.	08-1999
US 6,320,855 B1	Shi et al.	11-2001
US 6,434,396 B1	Rune et al.	08-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

12. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

13. **Claims 1-6 and 13-14, 15-17, 19-22, 24-25** are rejected under 35 U.S.C. 103(a) as being unpatentable over Padovani et al (US 2003/0063583 A1) in view of Diachina et al (US 5,633,874)

Regarding claims 1, 15, Padovani '583 discloses a communication system (fig. 2, Communications System, recited in paragraph 0052, lines 1-11) having a downlink indicator channel (fig. 5 control channel 502 used for paging messages, recited in

paragraph 0136, lines 1-13) for the transmission of an indicator signal (fig. 5, "Base Station 502 transmits paging signal", recited in paragraph 069, lines 1-7) indicating that a data packet is ("data to be transmitted", recited in paragraph 0069, lines 1-4 and paragraph 0017, lines 8-14) scheduled to be transmitted on a downlink data channel ("forward link control channel", recited in paragraph 0136, lines 1-6) from a primary station (fig. 5, Base Station 502 or fig. 1, 4a-4f) to a secondary station (fig. 5, Mobile Station 504 and fig. 1, MS 6a-6f), the secondary station (fig. 5, , Mobile Station 504) having receiving means (fig. 5, Mobile Station 504 receiving paging message on control channel) for receiving the indicator signal ("mobile station responding to paging messages, recited in paragraph 0018, lines 3-13) and the data packet ("mobile station receiving data", recited in paragraph 0041, lines 3-6), acknowledgment means ("link measurement of signals and subsequent transmission to base station", recited in paragraph 0078, lines 1-12 and "error detection and subsequent NACK", recited in abstract, lines 9-15) for transmitting a signal to the primary station (fig. 5, Base Station, fig. 4a-4f) to indicate the status ("upon decoding the paging messages, mobile station measures forward link signal and transmits to base station", recited in paragraph 0044, lines 1-6 as shown in fig. 5, Mobile Station 504 and 506) of the received data packet (fig. 5, MS receiving forward link packets 512, recited in paragraph 0070, lines 18 and "decoding of data packets", recited in paragraph 0076, lines 1-22).

Regarding claims 2, 16, Padovani '583 discloses a system (fig. 2, Communications System, recited in paragraph 0052, lines 1-11) wherein characterized in that the status signal (fig. 5, "see steps 504-508, recited in paragraph 0069-0070-

same time slot is being used) is the same signal as that used for a negative acknowledgement ("decoding of data packet and subsequent NACK", recited in paragraph 0084, lines 1-14).

Regarding claims 3, 19, Padovani '583 discloses a primary station (fig. 5, Base Station 502 or fig. 1, Base Station 6a-6f, recited in paragraph 0050, lines 1-20) for use in a communication system (fig. 2, Communications System, recited in paragraph 0052, lines 1-11) having a downlink indicator channel (fig. 5 control channel 502 used for paging messages, recited in paragraph 0136, lines 1-13) for the transmission of an indicator signal (fig. 5, "Base Station 502 transmits paging signal", recited in paragraph 069, lines 1-7) indicating that a data packet ("amount of data to transmit", recited in paragraph 0069, lines 1-4 and paragraph 0017, lines 8-14) is scheduled to be transmitted on a downlink data channel (fig. 5 control channel 502 used for paging messages, recited in paragraph 0136, lines 1-13) from the primary station (fig. 5, Base Station 502 or fig. 1, 4a-4f) to the secondary station (fig. 5, Mobile Station 504 and fig. 1, MS 6a-6f).

Regarding claims 4, 20, Padovani '583 discloses a primary station (fig. 4a-4c or fig. 5, recited in paragraph 0050, lines 1-20), characterized in that the status signal (fig. 5, "see steps 504-508, recited in paragraph 0069-0070-same time slot is being used) is the same signal as that for a negative acknowledgement ("decoding of data packet and subsequent NACK", recited in paragraph 0084, lines 1-14).

Regarding claims 5, 21, Padovani '583 discloses a secondary station (fig. 5, Mobile Station or fig. 1, Mobile Station 6a-f for use in a communication system (fig. 2,

Communications System, recited in paragraph 0052, lines 1-11) having a downlink indicator channel (fig.5 control channel 502 used for paging messages, recited in paragraph 0136, lines 1-13) for the transmission of an indicator signal (fig. 5, "Base Station 502 transmits paging signal", recited in paragraph 069, lines 1-7) indicating that a data packet ("amount of data to transmit", recited in paragraph 0069, lines 1-4 and paragraph 0017, lines 8-14) is scheduled to be transmitted on a downlink data channel (fig.5 control channel 502 used by the Base Station, recited in paragraph 0136, lines 1-13) from a primary station (fig.5 and fig. 1, Base Station 4a-4f) to the secondary station (fig. 5, Mobile Station 504 and fig. 1, Mobile Station 6a-6f) wherein receiving means are provided for receiving the indicator signal (fig. 5, Mobile Station 504 receiving paging message on control channel, recited in paragraph) and the data packet("mobile station receiving data", recited in paragraph 0041, lines 3-6), acknowledgement means ("link measurement of signals and subsequent transmission to base station", recited in paragraph 0078, lines 1-12 "error detection and subsequent NACK", recited in abstract, lines 9-15) are provided for transmitting on an uplink channel a signal to the primary station to indicate the status ("upon decoding the paging messages, mobile station measures forward link signal and transmits to base station", recited in paragraph 0044, lines 1-6 as shown in fig. 5, Mobile Station 504 and 506) of the received data packets (fig. 5, MS receiving forward link packets 512, recited in paragraph 0070, lines 18 and "decoding of data packets", recited in paragraph 0076, lines 1-22).

Regarding claims 6, 16, Padovani '583 discloses a secondary station (fig. 5 and fig. 1, Mobile Station 6a-6f, recited in paragraph 0050, lines 1-20), characterized in

that the status signal (fig. 5, "see steps 504-508, recited in paragraph 0069-0070-same time slot is being used) is the same as that used for a negative acknowledgment ("decoding of data packet and subsequent NACK and subsequent NACK", recited in paragraph 0084, lines 1-14).

Regarding claims 14, 24, Padovani '583 discloses a method of operating a communication system (fig. 2, Communications System, recited in paragraph 0052, lines 1-11) having a downlink indicator channel (fig. 5 control channel 502) for the transmission of an indicator signal (fig. 5, "Base Station 502 transmits paging signal", recited in paragraph 069, lines 1-7) for the transmission of an indicator signal indicating that a data packet ("data to be transmitted", recited in paragraph 0069, lines 1-4 and paragraph 0017, lines 8-14) is scheduled to be transmitted on a downlink data channel ("forward link control channel", recited in paragraph 0136, lines 1-6) from a primary station (fig. 5, Base Station 502), the method comprising the secondary station (fig. 5, , Mobile Station 504) receiving the indicator signal ("mobile station responding to paging messages, recited in paragraph 0018, lines 3-13 and fig. 5, Block 504 and 506) and the data packet ("mobile station receiving data", recited in paragraph 0041, lines 3-6).

Regarding claim 17, Padovani '583 discloses the communication system (fig. 2, Communications System, recited in paragraph 0052, lines 1-11), wherein the primary station (fig. 5, Base Station 502 or fig. 1, Base Station 6a-6f, recited in paragraph 0050, lines 1-20) has two chances to detect a case where the secondary station (fig. 5, , Mobile Station 504) fails to detect the indicator signal ("after transmitting paging messages, all base stations in the active set monitor the channel for a message from

the mobile station", recited in paragraph 0083-since the base stations monitor the channel, there implied to be multiple chances).

Regarding claim 25, Padovani '583 discloses the method, wherein the status signal (fig. 5, "see steps 504-508, recited in paragraph 0069-0070-same time slot is being used) is the same as the as the negative acknowledgement ("decoding of data packet and subsequent NACK and subsequent NACK", recited in paragraph 0084, lines 1-14).

Padovani '583 discloses all the subject matter of the claimed invention with the exception of the following features:

Regarding claims 1, 15, wherein the secondary station comprises means for transmitting on an uplink channel a status signal to indicate receipt of the indicator signal before transmission of a positive or negative acknowledgement to indicate the status of the received data packet.

Regarding claims 3, 19, means are provided for transmitting a status signal to indicate receipt of the indicator signal before transmission of a positive or negative acknowledgement to indicate the status of the received data packet.

Regarding claims 5, 21, means are provided for transmitting a status signal to indicate receipt of the indicator signal before transmission of a positive or negative acknowledgement to indicate the status of the received data packet.

Regarding claim 13, a secondary station, characterized in that means are provided for transmitting a plurality of status signals signal.

regarding claim 14, 24, transmitting on an uplink channel a status signal to indicate receipt of the indicator signal before transmission of a positive or negative acknowledgement to indicate the status of the received data packet.

However, Diachina '874 from the same field of endeavor discloses the above claimed features:

Regarding claims 1, 15, wherein the secondary station (fig. 3, Mobile Station 120, recited in column 5, lines 33-46) comprises means for transmitting on an uplink channel (fig. 3, Voice and Control Channel Transceiver 170, recited in column 5, lines 36-38) a status signal ("transmitting status signal by Mobile station", recited in column 4, lines 1-7) to indicate receipt of the indicator signal before transmission of a positive or negative acknowledgement to indicate the status of the received data packet (noted: response to status signal is sent first by the mobile station to acknowledging of data/frames reception, recited in abstract, lines 1-11, col. 4, lines 7-11-bit mat to indicate which frames have been correctly received).

Regarding claim 3, 19, means are provided for transmitting a status signal to indicate receipt of the indicator signal before transmission of a positive or negative acknowledgement to indicate the status of the received data packet (noted: the mobile station transmits status response to the base station prior to indicating the correct reception of frames that have been received, recited in col. 3, lines 66 to col. 4, lines 11).

Regarding claims 5, 21, means are provided for transmitting (fig. 3, Voice and Control Channel Transceiver 170, recited in column 5, lines 36-38) a status signal

(“transmitting status signal by Mobile station”, recited in column 3, lines 1-2 and column 4, lines 1-7) to indicate receipt of the indicator signal (“mobile station transmit in response to status request”, recited in column 4, lines 7-11) before transmission of a positive or negative acknowledgement to indicate the status of the received data packet (response to status signal is sent first by the mobile station to acknowledging of data/frames reception, recited in abstract, lines 1-11, “the mobile station transmits a bit map to indicate which frames have correctly received”, recited in col. 4, lines 7-11).

Regarding claim 13, a secondary station (fig. 3, Mobile Station 120, recited in column 5, lines 33-46), characterized in that means are provided for transmitting a plurality of status signals signal (“transmitting status signal by Mobile station”, recited in column 3, lines 1-2 and column 4, lines 1-7).

Regarding claims 14, 24, transmitting on an uplink channel (fig. 3, Voice and Control Channel Transceiver 170, recited in column 5, lines 36-38) a status signal (“transmitting status signal by Mobile station”, recited in column 3, lines 1-2 and column 4, lines 1-7) to indicate receipt of the indicator signal (“mobile station transmit in response to status request”, recited in column 4, lines 7-11) before transmission of a positive or negative acknowledgement to indicate the status of the received data packet (“response to status signal is sent first by the mobile station to acknowledging of data/frames reception, recited in abstract, lines 1-11, “the mobile station transmits a bit map to indicate which frames have been correctly received”, recited in col. 4, lines 7-11).

In view of the above, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the features of Padovani '583 by using features as taught by Diachina '874 in order to provide frames reception quality through the use of status report as suggested in col. 3, lines 55-65 for motivation.

14. **Claims 7** is rejected under 35 U.S.C. 103(a) as being unpatentable over Padovani et al (US 2003/0063583 A1) in view of Diachina et al (US 5,633,874) as applied to claim 5 above, and further in view of Wang et al (US 5,933,763).

Padovani '583 and Diachina '874 disclose all the claimed limitations as set forth in the above rejection with the exception of being silent with respect to claimed features: the status signal transmitted at the same power as a positive acknowledgement.

However, Wang '763 from the same field of endeavor discloses the above claimed features: that the status signal ("attenuated acknowledgement signal", recited in column 4, lines 13-17) is the same signal used at the same as positive acknowledgement as a positive acknowledgement power ("increased of acknowledgement signals without increasing the power", recited in column 4, lines 17-24).

In view of the above, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the features of '583 with Diachina '874 by using features as taught by Wang '763 in order to provide an efficient use of power as suggested in col. 11, lines 9-26 for motivation.

15. **Claim 8** is rejected under 35 U.S.C. 103(a) as being unpatentable over Padovani et al. et al. in view of Diachina et al. as applied to claims 5 above, and further view of Shi et al (US 6,320,855 B1).

Padovani, Diachina disclose a secondary station as recited above. However, Padovani, Diachina are silent with respect to the following features:

Regarding claim 8, means are provided for resetting a timer on the receipt of the indicator signal and for modifying a characteristic of uplink transmission until the timer expires.

However, Shi '855 from the same field of endeavor discloses the above claimed features: means are provided for resetting a timer on the receipt of the indicator signal ("resets timer when message on paging channel is received", recited in column 5, lines 26-31) and for modifying a characteristic of uplink transmission until the timer expires ("timer expires and mobile station enters determination substrate", recited in column 5, lines 44-50).

In view of the above, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the features of Padovani '583 with Diachina '874 by using features as disclosed in the background of Shi '855. in order to provide power conservation by resetting the timer as suggested in col. 5, lines 35-41 for motivation.

16. **Claims 9, 11** are rejected under 35 U.S.C. 103(a) as being unpatentable over Padovani et al. in view of Diachina et al. and background disclosure of Shi et al as applied to claim 8 above, and further view of Rune et al (US 6,434,396 B1).

Padovani, Diachina, Shi disclose the secondary station as recited in above paragraph. However, They are silent with regard to the claimed features:

Regarding claims 9, means are provided for transmitting a negative acknowledgement for each time at which a data packet could have been transmitted if no transmission of a data packet is detected, and in that such negative acknowledgements are only transmitted until the timer expires.

Regarding claim 11, means are provided for transmitting a positive or negative acknowledgement of a received data packet N times, where N is predetermined, and for transmitting subsequent negative acknowledgements until the timer expires.

However, Rune '396 from the same field of endeavor, teaches the above claimed features:

Regarding claims 9, a secondary station (fig. 1, MS or mobile station responding to a paging signal RA/ACK from BS or base station, recited in column 2, lines 23-30) characterised in that means ("mobile station returning a negative ACK/NACK", recited in column 4, lines 46-53) are provided for transmitting a negative acknowledgement ("the mobile station returns negative acknowledgement", recited in col. 4, lines 39-42) for each time at which a data packet could have been transmitted if no transmission of a data packet is detected ("transmission of incorrect data packet", recited in column 4, lines 39-41) and in that such negative acknowledgements are only

transmitted until the timer expires ("paging signal not replied to by mobile terminal after expiry of time interval", recited in column 4, lines 41-45).

Regarding claim 11, a secondary station ("mobile station returning a negative ACK/NACK", recited in column 4, lines 46-53), characterised in that means are provided for transmitting a positive or negative acknowledgement of a received data packet N times ("mobile station transmits negative ACK until positive ACK is received", (implies that mobile station can transmit acknowledgement multiple times), recited in column 6, lines 41-46), where N is predetermined, and for transmitting subsequent negative acknowledgements until the timer expires ("paging signal not replied to by mobile terminal after expiry of time interval", recited in column 4, lines 41-45).

In view of the above, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the features of Padovani with Diachina, Shi '855 by using features as taught by Rune '396 in order to minimize initial delay for a mobile terminated message as suggested in col. 1, lines 35-40 and, lines 54-65 for motivation.

17. **Claims 18, 23** are rejected under 35 U.S.C. 103(a) as being unpatentable over Padovani et al (US 2003/0063583 A1) in view of Diachina et al (US 5,633,874) as applied to claims 15, 21 above, and further view of Shi et al (US 6,320,855 B1), Rune et al (US 6,434,396 B1).

Padovani '583 and Diachina '874 disclose all the claimed limitations with the exception of being silent about the claimed features:

Regarding claim 18, wherein the secondary station further comprises a timer configured to be reset on receipt of the indicator signal.

Regarding claim 23, wherein the secondary station further comprises a timer configured to be reset on receipt of the indicator signal.

Shi '855 from the same field of endeavor discloses the claimed features:

Regarding claim 18, wherein the secondary station (fig. 1, Mobile Station 10) further comprises a timer configured to be reset on receipt of the indicator signal ("resets timer when message on paging channel is received", recited in column 5, lines 26-31).

Regarding claim 23, wherein the secondary station (fig. 1, Mobile Station 10) further comprises a timer configured to be reset on receipt of the indicator signal ("resets timer when message on paging channel is received", recited in column 5, lines 26-31).

In view of the above, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the features of Padovani '583 with Diachina '874 by using features as disclosed in the background of Shi '855. in order to provide power conservation by resetting the timer as suggested in col. 5, lines 35-41 for motivation.

Padovani '583, Diachina '874 and Shi '855 disclose all the claimed limitations with the exception of being silent with respect to claimed features:

Regarding claim 18, wherein the secondary station is further configured to transmit negative acknowledgements for each time a data packet could have been

transmitted if no transmission of a data packet is detected, and the negative acknowledgements being only transmitted until the timer expires.

Regarding claim 23, wherein the secondary station is further configured to transmit negative acknowledgements for each time a data packet could have been transmitted if no transmission of a data packet is detected, and the negative acknowledgements being only transmitted until the timer expires.

Rune '396 from the same field of endeavor discloses the claimed features:

Regarding claim 18, wherein the secondary station (fig. 1, MS or mobile station responding to a paging signal RA/ACK from BS or base station, recited in column 2, lines 23-30) is further configured to transmit negative acknowledgements ("the mobile station returns negative acknowledgement", recited in col. 4, lines 39-42) for each time a data packet could have been transmitted if no transmission of a data packet is detected ("transmission of incorrect data packet", recited in column 4, lines 39-41), and the negative acknowledgements being only transmitted until the timer expires ("paging signal not replied to by mobile terminal after expiry of time interval", recited in column 4, lines 41-45).

Regarding claim 23, wherein the secondary station (fig. 1, MS or mobile station responding to a paging signal RA/ACK from BS or base station, recited in column 2, lines 23-30) is further configured to transmit negative acknowledgements ("the mobile station returns negative acknowledgement", recited in col. 4, lines 39-42) for each time a data packet could have been transmitted if no transmission of a data packet is

detected ("transmission of incorrect data packet", recited in column 4, lines 39-41), and the negative acknowledgements being only transmitted until the timer expires ("paging signal not replied to by mobile terminal after expiry of time interval", recited in column 4, lines 41-45).

In view of the above, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the features of Padovani '583 with Diachina '874, Shi '855 by using features as taught by Rune '396 in order to minimize initial delay for a mobile terminated message as suggested in col. 1, lines 35-40 and, lines 54-65 for motivation.

18. **Claims 10 and 12** are rejected under 35 U.S.C. 103(a) as being unpatentable over Padovani et al (US 2003/0063583 A1) in view of Diachina et al (US 5,633,874), and of Shi et al (US 6,320,855 B1) as applied to claim 8 above, and further in view of Khan et al (US 2002/0064167 A1).

Padovani, Diachina, and Shi disclose all the claimed limitations as set forth above with the exception of being silent about the claimed features:

Regarding claim 10, the timer has duration of one sub-frame.

Regarding claim 12, the timer has duration of N sub-frames.

However, Khan '167 from the same field of endeavor discloses the above claimed features:

Regarding claim 10, a secondary station (fig. 1, "receiving equipment transmits the ACK in a time slot", recited in paragraph 0012, lines 1-6) characterized in that the

timer ("timing relationship", recited in paragraph 0012, lines 6-13) has duration ("time elapsed or round trip delay", recited in paragraph 0014, lines 10-13) of one sub-frame ("time slot", recited in paragraph 012, lines 1-6).

Regarding claim 12, a secondary station ("receiving equipment transmits the ACK in a time slot", recited in paragraph 0012, lines 1-6), characterized in that the timer ("timing relationship", recited in paragraph 0012, lines 6-13) has a duration ("time elapsed or round trip delay", recited in paragraph 0014, lines 10-13) of N sub-frames ("timeslots", recited in paragraph 0014, lines 1-10).

In view of the above, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the features of Padovani '583 with Diachina '874, Shi '855 by using features as disclosed in the background of Khan '167 in order to increase the probability of correct reception by the mobile station or receiving equipment as suggested in paragraph 0010, lines 6-22 for motivation.

(19) Response to Arguments

Regarding independent claims 1, 3, 5, 14-15, 19, 21, 24, Appellants alleged that Diachina '874 fails to disclose "wherein the secondary station comprises means for transmitting on an uplink channel a status signal to indicate receipt of the indicator signal before transmission of a positive or negative acknowledgement to indicate the status of the received data packet.

In response, the Examiner respectively disagrees because Diachina '874 does in fact teach "the mobile station transmits a bit map to indicate which frames have been

received correctly", col. 4, lines 8-11). The bit map can be read as the positive acknowledgement.

Diachina further discloses sends a status report to the base station which can be read as the indicator signal (col. 3, lines 67 to col. 4, lines 5).

The Appellants further alleged that Diachina '874 fails to disclose "a secondary station comprising a receiver configured to receive an indicator signal followed by a data packet from a primary station; and a transmitter configured to transmit a status signal to indicate reception of the indicator signal before transmission of a positive acknowledgement or a negative acknowledgement to indicate a status of the received data packet".

In response, the Examiner respectfully disagrees Diachina '874 explicitly discloses a receiver with means for receiving and transmitting (fig. 3, Mobile station 120 with transceiver 170) and a transmitter (fig. 3, Base Station 110 with transceiver 160) with means for transmitting and receiving). Diachina '874 does in fact teach "the mobile station transmits a bit map to indicate which frames have been received correctly", col. 4, lines 8-11). The bit map can be read as the positive acknowledgement.

Diachina further discloses sends a status report to the base station which can be read as the indicator signal (col. 3, lines 67 to col. 4, lines 5).

The Appellants further alleged that dependent claims 2, 4, 6-13, 16-18, 20, 22-23, and 25 due to their dependency on claims 1, 3, 5, 15, 19, 21, 24.

In response, the Examiner respectfully disagrees with the Appellants' assertion because independent claims 1, 3, 5, 15, 19, 21, 24 are not patentable. Thus, the dependent claims are unpatentable by virtue of their dependency.

(20) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Conclusion

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Candal Elpenord/

Examiner, Art Unit 2616

/Kwang B. Yao/
Supervisory Patent Examiner, Art Unit 2616

/Aung S. Moe/
Supervisory Patent Examiner, Art Unit 2616